RealNetworks Inc v. MLB Advanced Media LP Doc. 35

Honorable Franklin D. Burgess

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

REALNETWORKS, INC., a Washington corporation,

Plaintiff,

v.

MLB ADVANCED MEDIA, L.P., a Delaware limited partnership,

Defendants.

Case No. CV04-0511FDB

JOINT STATUS REPORT

Pursuant to this Court's March 11, 2004 Order, Plaintiff RealNetworks, Inc. and Defendant MLB Advanced Media, L.P. submit the following Joint Status Report.

1. **Jurisdiction and Venue**: The statutory jurisdictional basis for this Court's jurisdiction is 28 U.S.C. §§1331, 1332, 15 U.S.C. §1125, and 28 U.S.C. §1367. Plaintiff asserts that this Court has jurisdiction as the parties are citizens of different states and the amount and value exceeds the sum or value of $75,000, exclusive of interests and costs. Defendant denies that the Court has jurisdiction over this case, as originally filed. Defendant asserts that this Court has jurisdiction only because its counterclaims arise under the Lanham Act, and that there is supplemental jurisdiction over the non-federal claims. Plaintiff is a Washington corporation with its principal place of business located in Seattle, Washington. Defendant is a Delaware limited partnership with its principal place of business located in New York, New York. The ultimate limited partners in defendant include citizens of the State of Washington.

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The parties agree that this Court has venue.

2. **Nature and Complexity of Case**: The plaintiff's case is a breach of contract case. Although not legally complex, the subject matter of the plaintiff's case contains some difficult concepts.

The defendant's have counterclaimed for (1) unfair competition/false designation of origin, (2) unjust enrichment, (3) common law unfair competition, (4) state statutory unfair competition and false advertising, and (5) federal declaratory judgment. The factual bases for the defendant's counterclaims are straightforward. The legal issues are somewhat complex.

3. **Status of Case**: Discovery is in its initial stages with no hearings or motions pending. The parties have agreed to a discovery deadline of September 1, 2004, a dispositive motions deadline of February 20, 2005 and a trial in June 2005.

4. **Special Master**: The parties do not believe that this case should be referred to a Special Master pursuant to Fed. R. Civ. P. 53.

5. **Mediation**: The parties have attempted to settle this matter out of Court, and will continue to engage in settlement discussions as appropriate. They do not feel mediation pursuant to Local Rule 39.1 would be a beneficial use of the parties' resources at this at this stage in the proceedings.

6. **Magistrate**: The parties do not consent to a full-time magistrate judge conducting the proceedings of this matter.

7. **Trial**: The parties believe this case will be ready for trial in June 2005. Absent circumstances beyond the parties' control, counsel will make themselves available during this time for trial. The plaintiff has requested a jury trial. The parties agree that the estimated length of trial will be two weeks. Trial counsel for both parties is as follows:

Counsel for the Plaintiff:

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As of this time, the parties do not have suggestions to shorten or simplify trial and do not see the need to bifurcate the trial.

DATED this 2nd day of July, 2004.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of July, 2004, I electronically filed

- **JOINT STATUS REPORT** and
- **JOINT REPORT - DISCOVERY PLAN**

with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Laurene E. Somerville, James L. Magee, G. Michael Halfenger and Mary K. Braza, attorneys for Defendant MLB Advanced Media LP.

/s/ Lynn M. Engel
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